

Debtors' Ex. 108

(H. B. 4259)
(Reconsidered)
(Reconsidered)

(No. 91)

(Approved March 29, 2004)

AN ACT

To establish a new “Commonwealth of Puerto Rico Teacher’s Retirement System Organic Act”; to create a new organizational structure in order to grant the System agility and promptness in the processes it carries out; to ensure teachers that they shall receive the benefits corresponding to them in a reasonable time; to establish a penalty for noncompliance for lack of agility and promptness in the granting of benefits by the System in favor of the Teacher; to incorporate administrative practices; establish a provision to implement an anti-corruption policy and penalize these types of acts committed by participants and employees of the System; to repeal Act No. 218 of May 6, 1951, as amended; among other things.

STATEMENT OF MOTIVES

Approximately one hundred years ago, an initiative was made to tend to a professional class whose ministerial duty consists of educating and forming the leaders and citizens that integrate the Puerto Rican society. The responsibilities and sacrifices that must be made to form useful individuals with a high sense of commitment with our Island makes the teaching class deserving of the highest esteem, respect and consideration of all those that were one day educated by them.

By virtue of the stated above and recognizing that in spite of the efforts made in the past to offer them a better quality of life, we have fallen behind

Section 2.- Definitions

The following words and terms, when used or referred to in this Act, shall have the meaning indicated hereinbelow unless another meaning clearly arises from the context. The tenses used in the present shall also include the future and the male gender includes the female, except in those cases in which said interpretation would be absurd. The singular number includes the plural and the plural includes the singular.

- (a) Credit Classifying Agencies - Are those recognized entities widely used in the United States to the effect of establishing the quality of the credit regarding the assets to be issued in the market.
- (b) Annuity – Shall mean the annual lifetime amount that can be acquired or purchased with a teacher's accumulated fees plus the composed interest thereon at the time of retiring from service. Said annuity shall be calculated in accordance with the value of the annuities approved by the Teacher's Retirement System.
- (c) Risk Capital – Shall mean the investment of capital in new enterprises or in development or of high risk, where there is a high potential of appreciation of value.
- (d) Fees - Shall mean those amounts that have been deducted or shall be deducted from a teacher's salary to be covered into the Fund.
- (e) Accumulated Fees – Shall mean the total amount of all fees deducted from a teacher's salary and covered into the Fund.

deposits at fixed terms and bank acceptances and shares in liquid mutual funds, among others.

- (n) Compound Interest – Shall mean a type of interest constituted by from two (2) to four (4) annual percentages computed in June 30 of each year, as determined by the Board of Trustees of the Commonwealth of Puerto Rico Teacher's Retirement System. However, the Board shall have the power to establish a different type of interest through regulations.
- (ñ) Board of Trustees – shall mean the Board of Trustees of the Commonwealth of Puerto Rico Teacher's Retirement System.
- (o) Teacher – Shall mean the teachers who teach in the classrooms, the School Directors and Deputy Directors and other denominations and category of teachers that exist or can exist within the nomenclature of the Department of Education of the Commonwealth of Puerto Rico, the Secretary of the Department of Education and other officers and those other teachers, employees or officials who avail themselves of the benefits of this Act, pursuant to the provisions thereof, provided they hold a valid certificate to work as a teacher.
- (p) Teacher in Active Service – Shall mean the teacher who makes a monthly contribution to the Teacher's Retirement System. The period during which a teacher has availed himself/herself of a leave without pay or is on sabbatical shall also be considered as active service.
- (q) Inactive Teacher – refers to that teacher that at one point made a contribution to the system and left the service without subsequently requesting the devolution of the fees.

Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities or to any other Commonwealth of Puerto Rico retirement system to the Teacher's Retirement System. It shall also mean any other employee who joins the System after the approval of this Act.

Section 3.- Creation

A retirement and benefits system is hereby created that shall be known as the "Teacher's Retirement System". The funds of the System shall be used and applied, as provided in this Act, for the benefit of the members of the system, their dependants and beneficiaries, for the payment of retirement and disability annuities, death annuities and benefits and other benefits.

Any change in the benefits structure of this System shall be backed by prior actuarial studies whereby the cost and source of financing have been determined.

Section 4.- Independence of the Teacher's Retirement System

The Teacher's Retirement System created by the provisions of this Act shall be organized as an entity independent and separate from others of the Government of the Commonwealth of Puerto Rico. The Board of Trustees and the Administration of this System shall not be subject to the provisions of Act No. 164 of July 23, 1974, better known as the "General Services Administration Act."

Section 5.- Human Resources Administration

The Teacher's Retirement System shall be an agency of the Central Government excluded from the provisions of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act" and from all regulations promulgated by virtue thereof., except for those areas that are essential to the merits principle, as defined in said Act. Said areas

Retirement System. Said employees shall have ninety (90) days as of the date they are notified to reject their having their fees and years of service transferred to the Teacher's Retirement System.

Those teachers under the Reform 2000 established by Act No. 305 of September 24, 1999, who wish to transfer from the Central Retirement System to the Teacher's Retirement Board, must pay the employer's contribution as of the date on which they joined under Reform 2000. They shall furthermore defray the difference in the percentage of the individual contribution of 8.275 to 9% as required by the Board. They shall likewise have their time worked under Reform 2000 acknowledged.

All employees under Act No. 1 of February 16, 1990 must pay the difference in the percentages of individual contribution and in their case the Teacher's Retirement Board promises to pay the difference of the employer's contribution. The difference in the percentages of individual contribution must be paid under Act 447 of May 15, 1951, as amended, and it shall be established that those employees under the coordinated plan must pay the difference in the individual contribution.

The Teacher's Retirement Board shall establish a payment plan for any debt that may arise with the System according to the provisions of Section 5 of this Act. Employees shall have up to 84 months to pay the totality of the amount agreed upon and the compound interest that shall prevail shall be of 3%, which shall be computed from the date the transfer of the contributions is accepted.

All employees shall have their time worked acknowledged. Should differences arise surpluses shall not be returned under any circumstances, it being understood that the Teacher's Retirement Board must invest several million dollars to grant that benefit.

- (g) Request and obtain from the Office of the Government of the Commonwealth of Puerto Rico those reports believed convenient in relation to the good administration of the System and keep the proper accounting books to determine its condition.
- (h) Pay the lifetime annual income to the pensioned teachers of the System, return the fees in those cases considered under the provisions of this Act, pay the salaries of its employees and all expenses legally incurred.
- (i) In the case of benefits financed with appropriations from the General Expenses Budget of the Commonwealth of Puerto Rico, the Secretary of the Treasury shall transfer the sums appropriated by the Legislature to the Teacher's Retirement System.
- (j) Invest the funds in the manner indicated in the provisions of this Act. To carry out this function, the System shall contract the necessary specialized professional services including consulting and investment broker services. It shall furthermore designate one or more banks as securities custodian with the approval of the Board of Trustees.
- (k) The Board of Trustees shall adopt the policy for the administration of the investments authorized by the provisions of this Act. The investment policy shall include, without it being understood as a limitation, the following:
 - (1) The criteria, requirements and conditions for selecting, contracting and evaluating the performance of the fund administrators and custodian banks that must be contracted to effect the investments authorized by the provisions of this Act.

The sums thus taken shall be returned to the general fund of the System as the special funds thus created accrue the needed reserves from the revenues proceeding from the premiums and surcharges collected. The Board of Trustees shall order an annual actuarial and risk study that would provide the basis for determining the total amount of the premium the insurers are to be charged in relation to each of said plans. Should any insurance plan were to be discontinued after having been in operation, the sums remaining in the special fund corresponding to the discontinued plan shall be covered into the general fund of the System after the obligations corresponding to said plan have been paid.

Section 7.-Constitution of the Board of Trustees

The powers and faculties of the Retirement System and the responsibility for its general administration and proper operation shall fall on the Board of Trustees hereby created, known as the “Board of Trustees of the Puerto Rico Teacher’s Retirement System”, which shall be constituted by nine (9) members of which the following three (3) shall be Ex-Officio members:

- (a) The Secretary of the Treasury of Puerto Rico or his or her representative, who shall be its Chairperson;
- (b) The Secretary of Education of Puerto Rico or his or her representative;
- (c) The President of the Government Development Bank or his or her representative.

Of the six (6) remaining members, one (1), or his or her representative, shall be the Chairperson of a teacher’s organization, or his or her

act with full powers and responsibilities as trustees of the Teacher's Retirement System.

Section 8.- Organization, sessions; offices

Once the Board of Trustees has been appointed and constituted, the Chairperson shall immediately summons in writing all members of said Board in order to hold an inaugural session. The Secretary of the Treasury shall act as Chairperson of the Board of Trustees. The Vice-Chairperson and Treasurer of the Board of Trustees shall be elected by the majority vote of its members. The Board of Trustees may appoint one Secretary in charge of the minutes as administrative officer under the supervision of the Executive Director, with the duties and obligations adopted in the regulations of the Board of Trustees that are consonant with this Act, for the proper operation of the Board and as support for the Executive Director. All matters the Board of Trustees may deem pertinent for its best administration and operation may be considered during this session. The Board of Trustees shall hold at least one (1) monthly regular session and special sessions when the needs of the service so warrant, through a summons to be delivered by the Chairperson of the Board of Trustees to all other of its members or at the request of a majority of the members of said Board.

Section 9.- Teacher per diems and expenses

The members of the Board of Trustees shall receive no compensation whatsoever for their services but shall be entitled to a fixed per diem for an amount to be adopted through regulations. This right shall be granted for each day they conduct any business at the request of the Board or its Chairperson related to the duties imposed upon them by this Act. This provision shall not apply to the ex-officio members of the Board of Trustees of the System.

- (f) certify the necessary payments to be made according to the provisions of this Act.
- (g) execute those other functions entrusted or delegated to him or her by the Board of Trustees.

Section 14.- Transfer of the Annuities and Pension Fund

The “Puerto Rico Teacher’s Annuities and Pension Fund”, created by virtue of Act No. 218 of May 6, 1951, as amended, is hereby transferred as follows:

- (a) With the funds and assets of the Puerto Rico Teacher’s Annuities and Pension Fund by the date of effectiveness of this Act.
- (b) With the fees from the nine (9) percent withheld from the salaries of the teachers members of the System.
- (c) With an amount equal to eight and half percent (8.5%) of the total monthly salary payroll paid by the Commonwealth of Puerto Rico to all teachers who avail themselves of the benefits of this Act. This amount shall be payable to the Fund by the Commonwealth of Puerto Rico at the same time the salaries of the teachers of the System are paid, chargeable to the appropriations made by the Legislature of Puerto Rico to cover this item.
- (d) With the annual amount to be appropriated by the Legislature of Puerto Rico to cover the deficiencies arising in the Fund of the System by recognizing the years of service rendered by the teachers prior to the approval of the provisions of this Act, disability, retirement because of age and minimum annuity, a sum to be determined by the actuaries designated by the

Puerto Rico with the exception of the University of Puerto Rico, provided they provide evidence of their intention of continuing to abide by the provisions of this Act by means of a letter addressed to the Puerto Rico Teacher's Retirement System.

(d) The teachers who work for the Puerto Rico Teacher's Association, the Puerto Rico Teacher's Credit Union, the Puerto Rico Teacher's Federation and any other teacher or service organizations duly recognized by law; all teachers who practice in private institutions recognized by the Department of Education and the members of the Legislature of the Commonwealth of Puerto Rico, provided they hold a valid certification to practice as teachers.

(e) All employees, members of the Teacher's Retirement System.

Section 16.- Teacher and Fund employee fees

As of the date of approval of this Act all teachers and employees of the System shall make a contribution of nine (9) percent of their monthly total salary earned to the Fund.

The fees contributed to the Fund by the teachers and employees, as well as the employer's contribution shall be evaluated by means of the corresponding actuarial study as deemed necessary by the System. Said evaluation shall never exceed a period of more than five (5) years.

Section 17.- Salary deductions

The Secretary of Education or the pertinent nominating authority or any other person in charge of preparing teacher or System employee salary payrolls shall withhold the corresponding fees to be contributed by the teachers or the System employees and order said fees to be covered into the

- (a) Teachers of any category who hold office or occupy administrative positions in the Department of Education, or in any Office of the School Director Attached to a Municipality or in any charitable learning institution for boys or girls, have all the rights and duties that by the provisions of this Act are granted to the teachers, this condition being indispensable for enjoying those rights and that, in such cases the Secretary of the Treasury, at the request of said teachers, orders the monthly withholding of nine percent (9%) of their salaries for the Retirement Fund. Any of the aforementioned teachers who chooses to belong to the Teacher's Retirement System and who has accrued funds in the Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities may request the transfer of said funds to the Teacher's Retirement System and the years corresponding to said transferred funds shall be taken into account when computing the lifetime annual income.
- (b) Teachers of any category who work as teachers in any state or territory of the United States that has a reciprocity clause with Puerto Rico may request that the Teacher's Retirement System transfer their fees in the Fund to the pension fund of the corresponding state or territory, accompanied by a certification accrediting the number of years of services rendered.

Section 21.- Teachers who do not work in public schools.

- (a) The time served by all teachers in the Puerto Rico Teacher's Association, the Puerto Rico Teacher's Credit Union, the Puerto Rico Teacher's Federation and any other teacher or

organizations duly recognized by law; or in the private schools of the Commonwealth of Puerto Rico whose study plan has been approved by the Department of Education and/or the Puerto Rico General Council on Education and that are subject to inspection by said Department, shall be computed for the purposes of the provisions of this Act, as if said services had been rendered in public schools, provided that said teachers file a petition in writing to that effect with the Retirement System and provided they pay into the Fund the fees established in Section 16 of this Act, corresponding to the accredited years of service and furthermore contribute for the services to be credited with a sum equal to the current contribution of the Government. These fees shall never be less than the one a teacher in the same category working in the public schools of Puerto Rico would have had to pay during that time. To be entitled to this recognition, teachers must be teaching in the public schools of Puerto Rico or in recognized private schools or working for the Puerto Rico Teacher's Association, the Puerto Rico Teacher's Credit Union, the Puerto Rico Teacher's Federation or any other teacher or service organizations duly recognized by law or practicing as teachers in any other department or agency of the Government of the Commonwealth of Puerto Rico.

- (c) The time served by all teachers or employees of the System in any agency, instrumentality or public corporation of the Government of the Commonwealth of Puerto Rico, municipality, municipal consortium, the Commonwealth

been discharged from said armed forces and after returning to teaching in the public schools of Puerto Rico shall be taken into account, for the purposes of their retirement, provided that said teachers file a petition in writing to that effect with the Retirement System and provided they pay into the Teacher's Retirement Fund the fees corresponding to all that time on the basis of the same salary earned as teacher after leaving the school system in order to serve in the armed forces.

- (e) The time served by all teachers in the public schools of a state or territory of the United States shall be computed for the purposes of the provisions of this Act, provided said territory or state has a reciprocity clause with Puerto Rico and provided the fees corresponding to the years that should be accredited are paid into the Fund; provided that said sum shall never be less than the sum that would have been paid by a teacher of equal category during said period plus the fees from the Commonwealth of Puerto Rico; Provided, furthermore, that when there is no such reciprocity clause said time may be computed provided the teacher pays into the Fund the employer and individual contributions based on the salary earned, plus the interest the System may determine so as to allow the Fund to credit said years of service without detriment to the economic solvency of the Fund.
- (f) The time served by all teachers as school directors in any municipality of Puerto Rico shall be computed for the purposes of the provisions of this Act, as if the services had been rendered in the schools, provided that said teachers file a

the services had been rendered in the public schools, provided said teachers pay the individual fees on the basis of the salary earned plus the corresponding employer's contribution. In order to acknowledge the time worked by each of these teachers, they must be active participants in the Teacher's Retirement System at the time they request such an acknowledgement.

Section 22.- Credit for services rendered for the Government of the Commonwealth of Puerto Rico.

All teachers or members of the System who rendered prior services for the Government of the Commonwealth of Puerto Rico, its instrumentalities, dependencies, agencies or any other government body, whose services were not credited by certain of the Retirement Systems in effect in Puerto Rico for public service employees, for being unable to contribute to said systems because of their job classification, may obtain credit for said services by contributing to the Teacher's Retirement System.

Said services may have been rendered for the Government of Puerto Rico, its agencies, instrumentalities or any other government body in regular, transitory, emergency, irregular or substitute positions or within any other classification.

In order to obtain credit for the aforementioned services, the teachers or System employees who claim said credit must make the corresponding payments, determined on the basis of the salary earned during the period that was not covered and on the basis of the type of individual and employer contribution in effect by the date on which said services were rendered plus the interest to be adjudicated.

cases indicated in subsection (d) of Section 15 of this Act. Reinstated teachers who continue to hold a position covered under the System may acquire standing as participant and obtain credit for former unaccredited services rendered before and after reinstatement through the payment of the corresponding contributions. Said teachers may also, if they so desire, request that any services to which they are entitled that may be accredited be acknowledged. The pensioner reinstated into the service may choose to:

- (a) While in active service as a teacher, return all payments received from the System on account of the lifetime annual income, in which case, at his or her definitive separation from service, his or her lifetime annual income shall be newly computed on the basis of all services rendered before and after reinstatement in the manner provided in Sections 1 to 64 of this Act regarding retirement annuities, or
- (b) not return the already made payments on account of the lifetime annual income, in which case, at his or her definitive separation from service, payment of the suspended pension shall be renewed and, in addition, a supplementary annuity shall be paid on the basis of services rendered and the average annual salary earned after reinstatement to the service. The supplementary annuity shall be computed according to the formula provided in Sections 1 to 63 of this Act regarding retirement annuities; in case the period of the services rendered after reinstatement is less than five (5) years, the average salary resulting from the whole aforementioned period of former services rendered shall be used.

credit hours at a recognized university for each year of leave. In the case of teachers about whom the Department of Education has no documentation providing evidence of their having been granted leave, and as long as the Teacher's Retirement Fund has evidence indicating that said teachers were in service before and after enjoying said leave, it shall be sufficient for the teachers to submit official evidence from the university where they studied vouching for the fact that they improved professionally in the field of education.

Section 28.- Retirement because of age.

The Retirement System shall grant retirement because of age at the request of teachers in active service who reach the age of sixty (60), provided they have completed ten (10) years of services that may be accredited.

Section 29.- Computation of lifetime annual income for disability.

The teacher who has retired from service for disability shall be entitled to receive a lifetime annual income for an amount equal to:

- (a) One point eight (1.8) percent of the highest average salary of five (5) consecutive years, or the number of years of service if less than five (5) years, multiplied by the number of years of services rendered. This lifetime annual income shall never be less than the minimum established by law.

Section 30.- Lifetime annual income shall be personal; assignment or embargo; prohibitions.

Entitlement to a lifetime annual income is personal and its assignment or transfer shall be null and void. The lifetime annual income shall not respond for debts contracted by the retired teachers, except those contracted

after being required to do so on three (3) different occasions at intervals of not more than one month, it shall be deemed that said teacher forfeits his or her lifetime annual income and payment of the same shall cease at the end of the month corresponding to the last requirement.

Section 33.- Distribution of fees at the death of a teacher inactive in the System.

When a teacher inactive in the System dies, his or her accrued fees plus the compound interest on these shall be returned after deducting those debts contracted with the Fund. The compound interest shall never be less than two (2) percent. The amount returned shall be paid to the beneficiaries designated by the deceased before the Teacher's Retirement System in his or her will or in its defect to his or her legal heirs.

Section 34.- Distribution of fees upon a death.

When a teacher dies while in active service his or her beneficiaries shall receive, in addition to the individual fees and interest, a sum equal to the salary of one year corresponding to the position he or she held when he or she passed away.

Section 35.- Payments after the death of a teacher.

Upon the death of a retired teacher, his or her lifetime annual income shall be paid in full for the month when the death occurred to be enjoyed by his or her beneficiaries. The lifetime annual income shall no longer be paid from the biweekly payment period following the time of death of the retired teacher but his or her beneficiaries or forced or legal heirs shall receive the balance of the fees provided there are no outstanding pension fees to be paid as beneficiaries after deducting the annuities paid, and in no case shall they receive less than five hundred (500) dollars in a single payment. When the deceased teacher leaves children enrolled in a regular public or private

with a term of imprisonment of not more than two (2) years, or with both penalties at the discretion of the court.

The System shall be entitled to recover any payments erroneously or unduly made before or after the effectiveness of this Act. The System shall determine the manner and conditions under which the amounts thus paid shall be recovered.

Section 37.- Exemption of the Employee's Association.

The teachers of the System who avail themselves of the benefits of Section 1 to 64 of this Act shall be exempted from complying with all the provisions of Act No. 52 of July 11, 1921, as subsequently amended, provided they so indicate in writing to the Employee's Association within the sixty (60) days after the provisions of this Act are in effect or after having joined the System. Those teachers who continue working under Act No. 52 must comply with all the provisions set forth in that Act.

Section 38.- Withdrawal of funds from the Association.

The teachers who choose not to avail themselves of the provisions of Act No. 52 of July 11, 1921, may only withdraw their funds from said Association in the manner provided in said Act.

Section 39.- Effectiveness of the Pension.

The date of effectiveness of the retirement annuity for those teachers or employees entitled to receive the same shall be the day following the date of their separation from service or the subsequent date specified by them in the application for retirement, but in no case before separation from service, except when the provisions of this Act otherwise provide.

Section 40.- Lifetime annual income upon retirement.

(3) if the teacher or employee of the System has completed thirty (30) or more years of services that may be accredited and has reached the age of fifty (50), he or she shall receive a lifetime annual income equal to seventy-five (75) percent of the average highest salaries earned in three (3) years; or

(4) those teachers who retired by June 30, 1973 with fifty-five (55) or more years of age and thirty (30) years of services rendered, shall receive a lifetime annual income whose amount shall be computed as indicated below: (A) for the first thirty years of services that may be accredited, seventy-five (75) percent of the average compensation; and (B) for each year of service that may be accredited in excess of thirty (30) and up to a maximum of five (5) years to the date formerly indicated, an additional two (2) percent of the average compensation. This provision shall also benefit those teachers who by the said date of June 30, 1973 had reached the aforementioned age of fifty-five (55) years and have thirty (30) years or more of services that may be accredited, even though they have not retired by that time. Only those years in excess of thirty (30) for which the fees have been paid or are paid after June 30, 1973, may serve as the basis for computing the average compensation. In no case shall a lifetime annual income be paid of over eighty-five (85) percent of the average salary used to determine said income.

restrictions established in the investment guidelines for government retirement plans promulgated by the Government Development Bank for Puerto Rico.

Section 43.- Types of authorized investments.

The System shall invest all available resources that are not required for its regular operations and it is hereby authorized to invest said resources in the following securities:

- (1) (a) Fixed-income securities – Bonds, notes and obligations of the Government of the United States, its agencies and instrumentalities.
- (b) Bonds, notes or titles of debts, be they exempted or taxable securities that represent direct obligations or that are secured by the good faith and credit of government entities, instrumentalities, public enterprises or public corporations and any other government entities created under the laws of the Government of the United States, any of its states or of the Government of the Commonwealth of Puerto Rico.
- (c) Bonds, notes and corporate obligations.
- (d) Bonds, notes and obligations issued and secured by central governments of foreign countries.
- (e) Financial instruments constituted directly or indirectly on financial obligations, such as mortgage loans, collateral instruments for said loans, as well as car loans and lease contracts.
- (f) Money market instruments; these must be recognized and hold the highest classification for this type of short-term instrument of any of the credit classifying agencies.

- (3) Real property – The System may invest up to a maximum of fifteen (15) percent of its total resources in direct or indirect investments in real property that would generate revenues or for its own use. Said investments must have reasonable yield or savings expectations equal to or higher than other types of investments. No investments may be made in land which is not developed.
- (4) Risk capital – The System may invest in risk capital in newly created, developing, high growth or high risk enterprises with a high potential for appreciation. In this case the System may control over five (5) percent of the authorized stock provided that the funds devoted to this type of investment do not exceed five (5) percent of the total resources of the System and that they are executed through professional administrators of this type of investment.
- (5) Financial instruments – The Board of Trustees may authorize the System, through regulations to that effect, to make use of financial instruments such as options, futures, future delivery securities and transactions related to foreign currency exchange for the sole purpose of reducing the risk.
- (6) The System investments, whether they are fixed yield or stock investments may be denominated in U.S. or foreign currency.
- (7) Authorization to incur debts – The Board of Trustees may authorize the Executive Director to borrow from any financial institution of the Government of the Commonwealth of Puerto Rico or the Federal Government of the United States, or through direct debt placements, securing said debt by the assets

related to said document which is part of the Retirement System and is executed before a notary, shall be declared exempted from the payment of any type of fees and taxes.

- (e) Loans to temporary transitory and eligible transitory teachers at an interest rate to be determined by the Board of Trustees in its general b-laws.
- (f) Any other type of loan or credit which the Board of Trustees of the System deems to be of benefit or necessary for its teachers.

The Board of Trustees of the Retirement System is hereby authorized to invest part of its available reserves to enable the granting of loans to the teachers of the System for cultural trips, subject to the regulations adopted by the System.

The Retirement System shall from time to time determine the amount of funds to be devoted to that type of investment. It shall also determine through regulations, the pertinent conditions and procedures for granting the loans authorized by the provisions of this Act. The payment to amortize those loans shall be deducted monthly from the salary of the teacher or employee of the System. The Government of the Commonwealth of Puerto Rico shall pay into the Retirement System fifty (50) percent of the interest corresponding to the loan made by the teacher to take such trips. Should the teacher resign from the position he or she occupies within eighteen (18) months of receiving the loan, he or she shall have to reimburse to the Government of the Commonwealth of Puerto Rico the interest paid on said loan. The monies deemed necessary for these purposes shall be annually consigned in the General Budget Act.

The Secretary of Education, when preparing the expenses budget for his or her Department, is hereby directed to include the necessary appropriations authorized by Section 47 of this Act and to order the monthly payments against said appropriations to be covered into the Fund. The Retirement System shall notify the Secretary of Education about the monthly amount to be covered into the Fund charged to the special appropriation created by Section 1 to 64 of this Act.

Section 49.- Use of surplus funds.

If for any reason the appropriations authorized by Section 47 of this Act were not included in the Regular General Expenses Budget of the Government of the Commonwealth of Puerto Rico, the Secretary of the Treasury shall be authorized and ordered to carry over to his or her accounting books the regular and special appropriations authorized by the provisions of this Act and shall be empowered and ordered to pay the same in the foreseen manner from any surplus funds available in the Treasury which have not been appropriated for other purposes. The surplus resulting from the appropriations must be transferred to the Fund by means of the corresponding mechanism approved by the Secretary of Education.

Section 50.- Transfer from one system to another.

- (a) When a teacher or employee goes on to occupy a new position in any agency or body of the Government of the Commonwealth of Puerto Rico with an established retirement system for its employees, the Teacher's Retirement System shall transfer to the same the fees paid by said teacher, who shall obtain in the system to which he or she transferred, the credit corresponding to

Certification and all corresponding documentation required by the Retirement System.

Section 53.- Penalties for noncompliance with the terms for expediting the processes.

As of May 1, 2004, if the Teacher's Retirement System fails to meet the obligation established in Section 52 of this Act, it shall be responsible for paying to the participant an amount equal to the monthly salary that the latter received by the date of the application for retirement, except in cases of *force majeure* unconnected to the administrative procedures. Said penalty shall be established at the request of the teacher.

Section 54.- Loss of benefits for acts of corruption.

As of the date of effectiveness of this Act, any teacher or employee of the System who avails him or herself of this System and who commits and is convicted in a court of justice of acts constituting fraud, extortion, acceptance of subornation, misappropriation or any other offense involving the use of public funds for his or her own benefit or for the benefit of another person or entity, shall lose all benefits under the Teacher's Retirement System.

In such a case, the Teacher's Retirement System shall return to the teacher or employee of the System the balance of all accrued fees contributed to the Fund but not enjoyed, first collecting any debt, if there should be one, contracted with the same. The Teacher's Retirement System shall establish the mechanism through which the teacher or employee of the System, when becoming a member of the Teacher's Retirement System, shall sign a document in which he or she is made aware of said penalty.

Section 55.- The Retirement System is authorized to sell mortgage credits at public auction.

government employees to the Christmas Bonus for the year in which the Bonus is granted.

The Christmas Bonus payroll shall be covered by the General Fund.

Section 59.- Procurement and budget.

The System shall not be subject to the provisions of Act No. 164 of July 23, 1974, as amended, known as the “General Services Administration Act”, as well as the provisions of its respective regulations.

Section 60.- Transfer of resources.

All resources and facilities including the records, equipment, properties, buildings, land, funds, bank accounts, investment funds and appropriations that are being used in connection to the programs and functions of the Teacher’s Retirement Board shall be transferred to the System to be used, owned or expended by the System in relation to the functions it is bound to perform according to the provisions of this Act.

Section 61.- Debt, obligations and responsibilities.

All debts, obligations, and responsibilities, including the active pensions of the teachers and their beneficiaries, as well as the obligation to fulfill, and the right to receive the benefits of any judgment that may be pronounced against or in favor of the Teacher’s Retirement Board after the approval of this Act, are hereby transferred to the System.

Section 62.- Repeal of laws in effect.

Act No. 218 of May 6, 1951, as amended, known as the “Teacher’s Retirement Act”, is hereby repealed. All participants in the System at the time of repeal of the Act shall continue receiving the benefits they have been enjoying besides remaining covered by the subsequent provisions.

Section 63.-Severability Clause.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 91 (H.B. 4259) (Reconsidered) (Reconsidered) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to establish a new “Commonwealth of Puerto Rico Teacher’s Retirement System Organic Act”; to create a new organizational structure in order to grant the System agility and promptness in the processes it carries out; to ensure teachers that they shall receive the benefits corresponding to them in a reasonable time; to establish a penalty for noncompliance for lack of agility and promptness in the granting of benefits by the System in favor of the Teacher; etc.,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 9th of June of 2004.

Elba Rosa Rodríguez-Fuentes
Director